



Journal of the Senate

State of Indiana

115th General Assembly

Second Regular Session

Fifth Meeting Day

Tuesday Afternoon

January 15, 2008

The Senate convened at 2:06 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Senator Gregory F. Walker.

The Pledge of Allegiance to the Flag was led by Senator Walker.

The Chair ordered the roll of the Senate to be called. Those present were:

| | |
|--|------------|
| Alting | Long |
| Arnold | Lubbers |
| Becker | Meeks |
| Boots | Merritt |
| Bray | Miller |
| Breaux | Mishler |
| Broden | Mrvan |
| Charbonneau | Nugent |
| Deig | Paul |
| Delph | Riegsecker |
| Dillon | Rogers |
| Drozda | Simpson |
| Errington | Sipes |
| Ford <input checked="" type="checkbox"/> | Skinner |
| Gard | Smith |
| Hershman | Steele |
| Howard <input checked="" type="checkbox"/> | Tallian |
| Hume | Walker |
| Jackman | Waltz |
| Kenley | Waterman |
| Kruse | Weatherwax |
| Lanane | Wyss |
| Landske | Young, M. |
| Lawson | Young, R. |
| Lewis | Zakas |

Roll Call 8: present 48; excused 2. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 207, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 84, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 89, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 19, delete lines 32 through 42.

(Reference is to SB 89 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill 175, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 9, Nays 1.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill 249, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill 163, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Concurrent Resolution 6, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.

Committee Vote: Yeas 8, Nays 0.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 124, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 118, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 6, Nays 1.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill 117, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill 178, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

GARD, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and

Environmental Affairs, to which was referred Senate Bill 46, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

GARD, Chair

Report adopted.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 4

House Concurrent Resolution 4, sponsored by Senator Long:

A CONCURRENT RESOLUTION to convene a Joint Session of the 115th General Assembly of the State of Indiana.

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That a joint convention of the Senate and House of Representatives be convened, to meet in the Chamber of the House of Representatives at 2:00 p.m. on Wednesday, January 16, 2008, to receive the Chief Justice's message which will be given in compliance with Article 7, Section 3 of the Constitution of the State of Indiana and the Speaker is directed to appoint a committee of four members of this House to transmit this resolution to the Senate and report to this House such action as the Senate may take.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

House Concurrent Resolution 5

House Concurrent Resolution 5, sponsored by Senator Long:

A CONCURRENT RESOLUTION to convene a Joint Session of the 115th General Assembly of the State of Indiana.

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That a joint convention of the Senate and House of Representatives be convened, to meet in the Chamber of the House of Representatives at 7:00 p.m. on Tuesday, January 15, 2008, to receive the Governor's message which will be given in compliance with Article 5, Section 13 of the Constitution of the State of Indiana and the Speaker is directed to appoint a committee of four members of this House to transmit this resolution to the Senate and report to this House such actions as the Senate may take.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

SENATE BILLS ON SECOND READING

Senate Bill 39

Senator Meeks called up Senate Bill 39 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 40

Senator Meeks called up Senate Bill 40 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 40-1)

Madam President: I move that Senate Bill 40 be amended to read as follows:

Page 4, after line 6, begin a new paragraph and insert:

"SECTION 4. IC 32-21-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. The Indiana real estate commission established by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains the following:

(1) Disclosure by the owner of the known condition of the following:

- (A) The foundation.
- (B) The mechanical systems.
- (C) The roof.
- (D) The structure.
- (E) The water and sewer systems.
- (F) Additions that may require improvements to the sewage disposal system.
- (G) Other areas that the Indiana real estate commission determines are appropriate.

(2) A notice to the prospective buyer that contains substantially the following language:

"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property."

(3) A notice to the prospective buyer that contains substantially the following language:

"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and owner."

(4) A disclosure by the owner that an airport is located within a geographical distance from the property as determined by the Indiana real estate commission. The commission may consider the differences between an airport serving commercial airlines and an airport that does not serve commercial airlines in determining the distance to be disclosed.

(5) If IC 14-26-2-24 applies to the sale, a disclosure by the owner that IC 14-26-2-24 applies to any temporary structure that has been placed over, along, or lakeward of the shoreline or waterline of a public freshwater lake (as defined in IC 14-26-2-3)."

Renumber all SECTIONS consecutively.

(Reference is to SB 40 as printed January 11, 2008.)

MEEKS

Motion prevailed. The bill was ordered engrossed.

Senate Bill 41

Senator Meeks called up Senate Bill 41 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 42

Senator Miller called up Senate Bill 42 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 45

Senator Gard called up Senate Bill 45 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 58

Senator Waltz called up Senate Bill 58 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 58-1)

Madam President: I move that Senate Bill 58 be amended to read as follows:

Page 1, delete lines 1 through 5.

Page 3, after line 7, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE JULY 1, 2008] 585 IAC 1-9-4(4)(B) is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove the provision from the Indiana Administrative Code."

Renumber all SECTIONS consecutively.

(Reference is to SB 58 as printed January 11, 2008.)

WALTZ

Motion prevailed. The bill was ordered engrossed.

Senate Bill 88

Senator Meeks called up Senate Bill 88 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 139

Senator Bray called up Senate Bill 139 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 148

Senator Miller called up Senate Bill 148 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 153

Senator Miller called up Senate Bill 153 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 154

Senator Miller called up Senate Bill 154 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 155

Senator Miller called up Senate Bill 155 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 156

Senator Miller called up Senate Bill 156 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

RESOLUTIONS ON SECOND READING**Senate Concurrent Resolution 3**

Senator Miller called up Senate Concurrent Resolution 3 for second reading. The resolution was read a second time by title and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Koch, Foley, and Oxley.

Senate Concurrent Resolution 4

Senator Miller called up Senate Concurrent Resolution 4 for second reading. The resolution was read a second time by title and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Buell.

Senate Concurrent Resolution 5

Senator Lewis called up Senate Concurrent Resolution 5 for second reading. The resolution was read a second time by title and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Stemler and Leonard.

SENATE MOTION

Madam President: I move that Senator Bray be added as coauthor of Senate Bill 81.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Kruse and Delph be added as coauthors of Senate Bill 45.

GARD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Simpson, Merritt, and Charbonneau be added as coauthors of Senate Bill 249.

WYSS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Kruse, Charbonneau, Merritt, Becker, Boots, Lewis, Delph, Simpson, and Breaux be added as coauthors of Senate Bill 250.

WYSS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as coauthor of Senate Bill 212.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Simpson be added as coauthor of Senate Bill 303.

WATERMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Steele, Kruse, Tallian, and Breaux be appointed to act with a like committee of the House of Representatives to wait upon the Chief Justice and to escort him to the Chambers of the House of Representatives to deliver his message to the General Assembly on January 16, 2008.

Senator Steele shall serve as chairman of the committee.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Lawson, Riegsecker, Rogers, and Sipes be appointed to act with a like committee of the House of Representatives to wait upon the Governor and to escort him to the Chambers of the House of Representatives to deliver his message to the General Assembly on January 15, 2008.

Senator Lawson shall serve as chairman of the committee.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Lanane and Rogers be

added as coauthors of Senate Bill 208.

TALLIAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Simpson be added as second author of Senate Bill 181.

ERRINGTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Sipes be added as coauthor of Senate Concurrent Resolution 5.

LEWIS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Becker and Weatherwax be added as coauthors of Senate Bill 210.

TALLIAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Errington be added as second author of Senate Bill 128.

MRVAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Meeks be added as coauthor of Senate Bill 231.

MRVAN

Motion prevailed.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolutions 4 and 5 and the same are herewith transmitted for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 14 and 13 and the same are herewith returned to the Senate.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House of Representatives has passed the following motion: "I move that Representatives Blanton, Hoy, Steuerwald, and Elrod be appointed by the Speaker of the House of Representatives, to act with a like committee of the Senate to wait upon the Chief Justice and to escort him to the Chamber of the House of Representatives to deliver his message to the General Assembly on January 16, 2008."

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House of Representatives has passed the following motion: "I move that Representatives Klinker, Bartlett, Buell, and Soliday be appointed by the Speaker of the House of Representatives, to act with a like committee of the Senate to wait upon the Governor and to escort him to the Chamber of the House of Representatives to deliver his message to the General Assembly."

CLINTON MCKAY
Principal Clerk of the House

SENATE MOTION

Madam President: I move that Senator Kruse be added as third author of Senate Concurrent Resolution 4.

MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Wyss be added as coauthor of Senate Bill 155.

MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate do now recess until 6:30 p.m., at which time the Senate will reconvene in the House chambers for the purpose of attending a joint convention of the Senate and the House of Representatives to receive the Governor's message to the General Assembly delivered in compliance with Article 5, Section 13 of the Constitution of the State of Indiana, which requires that the Governor "from time to time give to the General Assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient."

LONG

Motion prevailed.

2:42 p.m.

The Senate recessed until the fall of the gavel for a Joint Convention with the members of the House of Representatives.

RECESS

(The message of Governor Mitchell E. Daniels, Jr., is recorded in the House Journal.)

The Senate reconvened at 7:37 p.m., with Senator Long in the Chair.

SENATE MOTION

Madam President: I move we adjourn until 1:15 p.m., Wednesday, January 16, 2008.

LAWSON

Motion prevailed.

The Senate adjourned at 7:39 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate